REMARKS/ARGUMENTS

I. Misnumbered Claims

The Examiner has renumbered claims 24-33 as claims 27-36.

II. Form 1449

The Examiner notes that the 1449 form submitted on 3-6-02 has apparently been misplaced by the Office and requests another copy. Applicants have enclosed herewith a copy of the 1449.

III. Status of the Claims

Claims 1-36 remain in this application. Claims 7 and 17 have been withdrawn. No claim has been amended.

IV. Rejections Under 35 U.S.C. 103(a)

A. *The Rejection of Claims 1-6, 8-16 and 18-20*

The Examiner has rejected claims 1-6, 8-16 and 18-20 as allegedly unpatentable over Reilly et al. (reference AL submitted in the IDS received 3-6-02) in view of Perkins et al. (reference AG submitted in the IDS received 3-6-02). Applicants respectfully traverse this rejection. The Examiner relies upon Reilly et al. as teaching the detection of skin irritation to external aggression by detecting prostaglandin E2 and IL-1-alpha. Reilly et al. measures the level of eicosanoids and cytokines in suction blister fluids. The Examiner recognizes that Reilly et al. fails to teach the use of an adhesive coated microporous plastic film to collect the skin secretions. To cure this deficiency, the Examiner relies upon Perkins et al.

Perkins et al. relates to the use of Sebutape® to assess inflammatory changes in human skin by measuring the level of cytokines. There is no teaching or suggestion that Sebutape® could be used to determine the level of eicosanoid. The Examiner takes the position that it would have been obvious at the time the invention was made to substitute suction blister fluid method of measuring cytokines and eicosanoids taught by Reilly et al. with the Sebutape® method taught by Perkins et al. Applicants respectfully disagree.

As the Examiner is well aware, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See M.P.E.P. § 2143. Here, there is nothing in the teachings of Perkins et al. that would provide one of ordinary skill in the art with the motivation that Sebutape® could be used to measure the level of eicosanoids in human skin. Indeed, Perkins et al. does not even mention eicosanoids. Further, one of ordinary skill in the art would not reasonable expect that Sebutape could be successfully used to replace the suction blister fluid method taught by Reilly et al. Accordingly, Applicants respectfully request withdrawal of this rejection.

B. *The Rejection of Claims 11 and 21*

The Examiner has rejected claims 11 and 21 as allegedly unpatentable in view of Reilly et al. and Perkins et al. and further in view of Mueller-Decker (reference AH on the IDS submitted 3-6-02). This rejection is traversed at least for the reasons discussed above with respect to the combination of Reilly et al. and Perkins et al. and for the additional limitations present in claims 11 and 21. Specifically, Mueller-Decker does not cure the deficiencies of Reilly et al. and Perkins et al. There is no teaching or suggestion in Mueller-Decker that Sebutape® could be used to measure the level of eicosanoids in human skin.

C. *The Rejection of Claims 23-36*

The Examiner has rejected claims 23-36 as allegedly unpatentable over Reilly et al. in view of Perkins et al. in further view of U.S. Patent No. 4281,061. This rejection is traversed at least for the reasons discussed above with respect to the combination of Reilly et al. and Perkins et al. and for the additional limitations present in claims 23 and 36. Specifically, U.S. Patent No. 4,281,061 does not cure the deficiencies of Reilly et al. and Perkins et al. There is no teaching or suggestion in U.S. Patent No. 4,281,061 that Sebutape® could be used to measure the level of eicosanoids in human skin.

V. Rejection Under 35 U.S.C. 112

The Examiner has rejected claims 1-10 as allegedly "incomplete for omitting essential steps." Specifically, the Examiner takes the position that because skin irritation is to be measured, a step for application of an irritant is required. Applicants respectfully disagree.

Application of an irritant is not an essential step of the invention as described in the specification. As discussed in the specification, the invention relates to a method and kit for measuring skin inflammation or irritation. Indeed, as also discussed by the specification, the invention relates to methods of determining the irritation profiles of topical skin care products which may or may not be irritating. The invention helps one to determine whether certain products are irritating. Therefore, a step which requires the application of an irritant is in now way essential to the invention as described in the specification. Accordingly, Applicants respectfully request withdrawal of this rejection.

VI. Conclusion

Applicants believe that the foregoing presents a full and complete response to the outstanding Office Action. An early and favorable response to this Amendment is earnestly solicited. If the Examiner feels that a discussion with Applicants' representative would be helpful in resolving the outstanding issues, the Examiner is invited to contact Applicants' representative at the number provided below.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 10-0750/JBP0581/EMH. If a fee is required for an Extension of time 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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